

REMARKS

I. PRELIMINARY REMARKS

No claims have been amended, added or canceled. Claims 1-38 remain in the application. Reexamination and reconsideration of the application are respectfully requested.

II. RESTRICTION REQUIREMENT

In response to the Restriction Requirement under 35 U.S.C. § 121, applicant provisionally elects Invention I (claims 1-10 and 27-38) without traverse for prosecution on the merits.

III. ELECTION OF SPECIES REQUIREMENT

In response to the Election of Species Requirement under 35 U.S.C. § 121, applicant provisionally elects Species 2 (Figure 2) **with traverse**. Applicant respectfully submits that of claims 1-6, 8-10 and 27-36 are directed to the elected species.

Turning to the reasons for traversal, applicant notes that the traversal is not based on the issues of independence or distinctness, and is not an admission that the species disclosed in the application are unpatentable over one another. The traversal is instead based on an error associated with the identification of the species in the requirement. More specifically, and although this may have simply been a typographical error, the Office Action indicated that Figure 1 and Figure 2 are illustrations of two different **species**. The surgical probe 100 shown in combination with the power supply and control apparatus 200 and tissue stimulation apparatus 300 in Figure 1 **is the same surgical probe 100** that is illustrated in Figure 2. Accordingly, Figures 1 and 2 do not illustrate two different species of the same generic invention.

IV. CLOSING REMARKS

Early and favorable consideration of the elected invention are respectfully requested. Allowance of the claims at an early date is courteously solicited. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call Applicants' undersigned representative at (310) 563-1458 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0638. Should such fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefor.

Respectfully submitted,

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Date

/Craig A. Slavin/

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